IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No. 17924 of 2006

Date of Decision: November 14, 2006

Harish Chander

…..Petitioner

Vs.

Uttar Haryana Bijli Vitran Nigam and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR.

HON'BLE MR. JUSTICE M.M.S. BEDI.

Present:- Mr. Y.P. Malik, Advocate,
for the petitioner.

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M.M. KUMAR, J. (ORAL)

The prayer made in the instant petition is for quashing the office memo. dated October 9, 2003 (P-2) and the order dated March 7, 2006 (P-5). On the direction issued by this Court on October 7, 2005 while disposing of Civil Writ Petition No. 1135 of 2004 filed by the petitioner, respondent No.3 has passed a detailed speaking order on the representation made by the petitioner. After referring to two Division Bench judgments of this Court in **Surinder Singh v. State of Haryana and others**, 1996 (2)

SLR 230 and **Jai Ram v. Uttar Haryana Bijli Vitran Nigam**, 2004 (4) SCT 664, respondent No.2 has held that the father of the petitioner has died after crossing the age of 55 years and as per Rule 4 (c) of the Haryana Government notification dated February 10, 2004, the dependent of such a deceased father is not entitled to grant of compassionate appointment although he is entitled to the cash financial assistance of Rs.2.5 lacs. Respondent No.2 in his order has dealt in detail the facts of **Surinder Singh's** case (supra) to come to sustainable conclusion that the aforementioned judgment of the Division Bench was not applicable to the case of the petitioner and similar is the position with regard to the Division Bench judgment in **Jai Ram's** case (supra). After perusing the impugned order dated March 7, 2006 (P-5), we are inclined to uphold the same especially when there was a bar at the relevant time under Rule 4 (c) of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, to consider the case of the dependent of such a deceased father who had crossed the age of 55 years and the family has unable to sustain itself for a period of more than three years. The mode of compassionate appointment is an exception to the provisions made by Articles 14 and 16 (1) of the Constitution and cannot be considered as a source of recruitment. Such like appointments are given only to tide over the sudden financial crisis created by the death of the bread earner of the family. The law tolerates such a provision in respect of appointment to Class III and IV posts. Such a view has been expressed by the Hon'ble Supreme Court in Commissioner of Public Instructions v. K.R. Vishwanath,

(2005) 7 SCC 206 and **National Hydro Electric Power Corporation v. Nanak Chand**, (2004) 12 SCC 487. There is no case pleaded that the family of the dependent is living in penury and compassionate appointment would enable the dependant family member to tide over the penury created by the death of the bread earner. There is thus, no merit in the petition and the same is dismissed. However, the petitioner shall be entitled to ex-gratia cash assistance of Rs.2.5 lacs as has been held by respondent No.2 in the impugned order.

(M.M.KUMAR)
JUDGE

November 14, 2006
sanjay

(M.M.S.BEDI)
JUDGE